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OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.  
1940 DUKE STREET  
ALEXANDRIA, VA 22314

EXAMINER
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STANFORD, CHRISTOPHER J

ART UNIT	PAPER NUMBER
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2887

NOTIFICATION DATE	DELIVERY MODE
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09/16/2010

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

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<b>Office Action Summary</b>	<b>Application No.</b> 10/593,253	<b>Applicant(s)</b> PAQUIER, MICHEL	
	<b>Examiner</b> CHRISTOPHER STANFORD	<b>Art Unit</b> 2887	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 22 July 2010.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 28-32,34-53 and 55 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 28-32,34-53, and 55 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)         | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Amendment***

1. Receipt is acknowledged of the amendment filed 7/22/2010. Claims 28, 32, 43, 47, 50, and 53 are amended, claims 1-27, 33 and 54 are cancelled, and claims 28-32, 33-53, and 55 are currently pending.

### ***Claim Objections***

2. Claim 28 is objected to because of the following informalities: "the public" lacks antecedent basis. Examiner does not view "the public" as a clearly defined group and thus may only be referred to as such if the phrase (i.e. "the public") is previously defined in the claim. It is recommended that language of claim 28 be amended to resemble the language of independent claim 43 (i.e. "publicly"). Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. **Claims 28-32, 35-38, and 41** rejected under 35 U.S.C. 103(a) as being unpatentable over Trpkovski (US 2003/0047538; hereinafter Trpkovski) in view of Wyatt et al. (US 3,654,438; hereinafter Wyatt).

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**Regarding claim 28**, Trpkovski teaches a claimed apparatus must be distinguished from the prior art apparatus on the basis of structure. Therefore, the patentability of an apparatus claim depends only on the claimed structure, not on the use or the purpose of that structure, *Catalina Marketing Int'l., Inc. v. Coolsavings.com Inc.*, 289 F.3d 801, 809 (Fed. Cir. 2002), or the function or result of that structure. See *In re Schrieber*, 128 F.3d 1473, 1477 (Fed. Cir. 1997); *In re Gardiner*, 171 F.2d 313, 315-16 (CCPA 1948).

Language in an apparatus claim directed to the function, operation, intent of use, and materials upon which these apparatus components work that does not structurally limit the apparatus components or patentably differentiate the claimed apparatus from an otherwise identical prior art apparatus will not support patentability. See, e.g. *In re Rishoi*, 107 F.2d 342, 344-45 (CCPA 1952); *In re Otto*, 312 F.2d 937, 940 (CCPA 1963); *In re Ludtke*, 441 F.2d 660, 663-64 (CCPA 1971); *In re Yanush*, 477 F.2d 958, 959 (CCPA 1973).

A limitation of “an identity of the at least one marking element can be communicated remotely to an identification device, the identification device incorporating, for a given marking element, characteristics unique to the glazing unit on which the marking element is visible, the characteristics being configured to be at least partly accessible to the public in exchange for the identity of the at least one marking element” is directed to intended use, function, and/or operation of the “glazing unit comprising: at least one marking element” in claim 28. Therefore, the limitation ***has been considered***, but has not been given patentable weight.

Even if the limitation *were* given patentable weight, the limitation does not structurally limit the claim directed to a glazing unit with a visible marking element. The applied reference(s) teach all of the structural limitations of the claim, and the reference(s) is presumed to be capable of the intended use, function, and/or operation.

The burden shifts to the Applicant to rebut the presumption that the structure of the applied reference(s) is not capable of the intended use, function, and/or operation.

Regarding claims 28, 31, and 32, Trpkovski discloses a glazing unit (Figs. 4-6 and 11) comprising: at least one marking element (logo) visible from outside the glazing unit (Figs. 4-6 and 11), the at least one marking element including a string of characters which contains one or more substrings of successive characters where at least one of the one or more substrings is encoded (time, date, serial/model number, para [0003-0004]), wherein the marking element can be visually identified by whomsoever (downstream users, para [0003]) and an identity (bar code links the “work piece” to identification information; para [0032-0035]) of the at least one marking element can be communicated remotely to an identification device (via bar code scanner to a “remote” database; para [0032-0035]), the identification device incorporating, for a given marking element (logo), characteristics relating to the glazing unit on which the marking element is visible (para [0003-0004,0032-0035]), the characteristics being which are configured to be at least partly accessible to the public in exchange for the identity of the at least one marking element (para [0003-0004,0028,0032-0035]).

Trpkovski discloses the claimed invention as cited above though does not explicitly disclose the marking element is encoded as a hexadecimal number with a base of 16.

Wyatt discloses the marking element is encoded as a hexadecimal number with a base of 16 (Fig. 1; abstract and col. 1, ln. 5-col. 2, ln. 19).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to encode a marking as a hexadecimal number as taught by Wyatt with the device as disclosed by Trpkovski. The motivation for marking/utilizing a hexadecimal code as opposed to a standard decimal code would have been to reduce the number of digits required to convey the same amount of information and to provide users with a way of reading information stored within a computer index (col. 1, ln. 5-col. 2, ln. 19).

Claims 31 and 32 do not structurally limit the glazing unit as claimed in claim 28. Further, the glazing unit of the applied art is capable of the recited limitations of use, operations, and function.

**Regarding claim 29**, Trpkovski teaches the string of characters includes at least one of numerals, letters, or pictorial symbols (abstract).

**Regarding claim 30**, Trpkovski teaches the identity of the at least one marking element is recognizable by a character-recognition reader equipment (logo contains text; abstract).

**Regarding claim 34**, Trpkovski teaches the at least one marking element and an identifier in the identification device remain unchanged while corresponding

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characteristics associated with the glazing unit can be altered (an etched logo and database associating a workpiece with a certification will remain unchanged while the certification standards change in time; para [0004,0010-0012]). Note the language “can be altered” is interpreted as optional.

**Regarding claim 35**, Trpkovski teaches the at least one marking element is affixed in perpetuity to the glazing unit, or is secured to a part of the glazing unit that is inaccessible from the outside (etched, Figs. 4-6 and 11; abstract).

**Regarding claim 36**, Trpkovski teaches the same at least one marking element arranged at plural points on the glazing unit (Fig. 11).

**Regarding claim 37**, Trpkovski teaches the at least one marking element identifies technical characteristics that make up the glazing unit, the characteristics relating to the manufacture of the glazing unit, commercial characteristics of the glazing unit, and characteristics associated with a destination of the glazing unit (para [0003-0004,0028,0032-0035]).

**Regarding claim 38**, Trpkovski teaches the at least one marking element identifies at least one of the following characteristics: a commercial name of the glazing unit; a family of the glazing unit; a type of the glazing unit; a composition of glass in the glazing unit; technical characteristics afforded by thin layers deposited on the glazing unit; dimensions of the glazing unit; a place of manufacture of the glazing unit; a date of manufacture of the glazing unit; a first customer of the glazing unit; information associated with a first use of the glazing unit; a type of certification; standards that the

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glazing unit meets; or pecuniary information associated with the glazing unit (para [0003-0004,0028,0032-0035]).

**Regarding claim 40**, Trpkovski teaches the at least one marking element identifies one or more characteristics, including a thickness of the gas-filled cavity, composition of the gas-filled cavity, and technical characteristics of the interlayer (air leakage; para [0004,0012]).

**Regarding claim 41**, Trpkovski teaches the at least one marking element is engraved or printed onto an element that comprises the glazing unit (etched; abstract).

5. **Claim 31** is rejected under 35 U.S.C. 103(a) as being unpatentable over Trpkovski in view of Wyatt as applied to claims 28, and further in view of Urbish et al. (US 5,734,343; hereinafter Urbish; cited by applicant).

Trpkovski discloses at least one marking element is communicated to the identification device by a technical communication (bar code scanning of workpiece; para [0003-0004,0028,0032-0035]).

Trpkovski discloses the claimed invention as cited above though does not explicitly disclose **the** at least one marking element is communicated to the identification device by a technical communication.

Urbish discloses the at least one marking element including a string of characters which contains one or more substrings of successive characters where at least one of the one or more substrings is encoded as a number is communicated to the



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identification device by a technical communication (binary coded numbers and alphanumeric symbols; col. 3, ln. 24-col. 4, ln. 28).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to communicate characters to the identification device as taught by Urbish with the device as disclosed by Trpkovski in view of Wyatt. The motivation would have been to communicate a unique identification number for transaction purposes (col. 3, ln. 24-col. 4, ln. 28).

6. **Claim 39** is rejected under 35 U.S.C. 103(a) as being unpatentable over Trpkovski in view of Wyatt as applied to claims 28, and further in view of the public use and sale of Andersen Windows (previously cited). A document (hereinafter Andersen), cited in previous Office Action mailed 12/09/2009, was acquired from [www.andersenwindows.com](http://www.andersenwindows.com) via [www.archives.org](http://www.archives.org) for March 24, 2004. The Andersen reference details the history of glazing units used and sold by Andersen Windows and Doors and headquartered in Bayport, MN, products from 1970-2003 are relevant to this rejection..

**Regarding claim 39**, Trpkovski discloses the glazing unit is an insulating unit and comprises at least two sheets of glass and at least one gas-filled cavity separating the two sheets of glass, a spacing of the two sheets of glass being achieved by at least one interlayer (frame separates two pieces of glass with gas-filled spacing; para [0011]).

Trpkovski in view of Wyatt discloses the claimed invention as cited above though does not explicitly disclose: wherein the at least one marking element is arranged on the at least one interlayer or on a face facing the gas-filled cavity.

Andersen discloses wherein the at least one marking element ("Andersen", page 12) is arranged ("stamped on all spacers") on the interlayer ("spacer") or on a face facing the gas-filled cavity (logos of Figs. 1-8, 10-13, pages 9-11). Logos of the glass panes are on a face facing the cavity since the logos are visible from either side of the window on either side of the air-filled cavity).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to mark the interlayer as taught by Andersen with the system as disclosed by Trpkovski in view of Wyatt. The motivation would have been to ensure that the information is permanent by protecting the marking from intentional and/or accidental destruction on an outer surface.

2. **Claim 42** is rejected under 35 U.S.C. 103(a) as being unpatentable over Trpkovski in view of Wyatt as applied to claim 28, and further in view of the public use and sale of Andersen Windows and Demars et al. (WO 03/040507; hereinafter Demars; previously cited by examiner). The US patent 7,332,202 B2 is used below as an English translation of the Demars reference and all citations are to the US patent.

Trpkovski discloses the glazing unit is an insulating unit and comprises at least two sheets of glass and at least one gas-filled cavity separating the two sheets of glass, a spacing of the two sheets of glass being achieved by at least one interlayer (frame separates two pieces of glass with gas-filled spacing; para [0011]).

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Trpkovski in view of Wyatt discloses the claimed invention as cited above though does not explicitly disclose: wherein the at least one marking element is arranged on the at least one interlayer or on a face facing the gas-filled cavity.

Andersen discloses the glazing unit is laminated (triple-pane, Fig. 9, page 10) and comprises at least two sheets of glass and a metallic interlayer (page 10, para 3) arranged between the two sheets of glass (Fig. 9, page 10), the at least one marking element being affixed to the metallic interlayer (logo "Andersen" stamped on spacer as on page 12).

Trpkovski in view of Wyatt and Andersen disclose the claimed invention as cited above though does not explicitly disclose a plastic interlayer.

Demars discloses the glazing unit (Fig. 1a) is laminated (abstract) and comprises at least two sheets of glass (glass sheets 10 & 11, Fig. 1a) and a plastic interlayer (strip 2; col. 8, ln. 42-59) arranged between the two sheets of glass, the at least one marking (col. 4, ln. 38-42) element being affixed to the plastic interlayer.

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to use mark a plastic interlayer as taught by Demars with the device as disclosed by Trpkovski in view of Wyatt and Andersen. The motivation would have been to provide traceability and to improve sealing by bordering corners of the glazing unit (col. 1, ln. 21-25, col. 4, ln. 38-42, & col. 8, ln. 42-59).

7. **Claims 43-53 and 55** and rejected under 35 U.S.C. 103(a) as being unpatentable over Trpkovski in view of Wyatt and Urbish.

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**Regarding claim 43**, Trpkovski teaches a method for identifying a glazing unit (para [0003-0004,0028,0032-0035]) including at least one marking element visible (bar code and logo link the “work piece” to identification information; para [0028,0032-0035]) from outside of the glazing unit and visually identifiable by whomsoever (Figs. 4-6 and 11; para [0028,0032-0035]), the method comprising: recognizing the at least one marking element (reading the logo or scanning the bar code; para [0003-0004,0028,0032-0035]), after the recognizing, transmitting a content of the at least one marking element via a first technical communication device to an identification device including a computer database (via bar code scanner to a “remote” database; para [0032-0035]), identifying one or more numbers from a string of characters of the at least one marking element (reading the logo’s serial/model number or other data; para [0003-0004,0028,0032-0035]), correlating via the computer database the one or more numbers with an item of information in the computer database (para [0003-0004,0028,0032-0035]), the item of information including characteristics unique to the glazing unit on which the marking element is visible (para [0003-0004,0028,0032-0035]), and passing-on at least some of the item of information publicly (displaying to user/operator) via a second technical communication device (para [0003-0004,0028,0032-0035]).

Trpkovski discloses identifying via the identification device at least one marking element and correlating via the computer database the marking element identified via the identification device with an item of information in the computer database (bar code scanning; para [0003-0004,0028,0032-0035]).

Trpkovski discloses the claimed invention as cited above though does not explicitly disclose identifying one or more hexadecimal numbers of base 16.

Wyatt discloses the marking element is encoded as a hexadecimal number with a base of 16 (Fig. 1; abstract and col. 1, ln. 5-col. 2, ln. 19).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to encode a marking as a hexadecimal number as taught by Wyatt with the device as disclosed by Trpkovski. The motivation for marking/utilizing a hexadecimal code as opposed to a standard decimal code would have been to reduce the number of digits required to convey the same amount of information and to provide users with a way of reading information stored within a computer index (col. 1, ln. 5-col. 2, ln. 19).

Trpkovski in view of Wyatt discloses the claimed invention as cited above though does not explicitly disclose transmitting **the** at least one marking element of a string of characters to an identification device by a technical communication.

Urbish discloses the at least one marking element including a string of characters which contains one or more substrings of successive characters where at least one of the one or more substrings is encoded as a number is communicated to the identification device by a technical communication (binary coded numbers and alphanumeric symbols; col. 3, ln. 24-col. 4, ln. 28).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to communicate characters to the identification device as taught by Urbish with the device as disclosed by Trpkovski in view of Wyatt. The motivation would have

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been to communicate a unique identification number for transaction purposes (col. 3, ln. 24-col. 4, ln. 28).

**Regarding claim 44**, Trpkovski teaches the recognizing of the at least one marking element is performed by electronic reading (bar code scanning; para [0003-0004,0028,0032-0035]).

**Regarding claim 45**, Trpkovski teaches the transmitting of the content of the at least one marking element to the identification device is performed by mail, by telephone, by telefax, by electronic communications, or by Internet (query remote databases electronically; para [0003-0004,0028,0032-0035]).

**Regarding claim 46**, Trpkovski teaches the passing-on of at least some of the item of information publicly via a second technical communication device includes by telephone, in writing by mail, by telefax, by sending a message by telephone or Internet, by displaying on an Internet site, or by displaying on any display screen connected to a communications network (remote databases electronically send logos to be displayed to user/operator; para [0003-0004,0025,0028-0035]).

**Regarding claim 47**, Trpkovski teaches a system (Fig. 2 and 3) for identifying a glazing unit (Figs. 4-6 and 11) using a marking element affixed to the glazing unit and identifiable from outside the glazing unit (Figs. 4-6 and 11), the system comprising: a first technical communication device that transmits recognition of the marking element to an identification device including a computer database (via bar code scanner to a "remote" database; para [0032-0035]), the identification device receiving the recognition of the marking element (para [0003-0004,0028,0032-0035]) and identifying the marking

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element, the identification device correlating the one or more numbers to information in the computer database (serial/model number and bar code associated with manufacturing information; para [0003-0004,0028,0032-0035]), the information including characteristics unique to the glazing unit on which the marking element is visible and being at least partially publically renderable (via logo; para [0003-0004,0028,0032-0035]); and a second technical communication device (remote database) that passes on the information in the computer database that corresponds to the marking element from the identification device to a reception device (user/operator display; para [0003-0004,0028,0032-0035]).

Trpkovski discloses identifying via the identification device at least one marking element and correlating via the computer database the marking element identified via the identification device with an item of information in the computer database (bar code scanning; para [0003-0004,0028,0032-0035]).

Trpkovski discloses the claimed invention as cited above though does not explicitly disclose identifying one or more hexadecimal numbers of base 16.

Wyatt discloses the marking element is encoded as a hexadecimal number with a base of 16 (Fig. 1; abstract and col. 1, ln. 5-col. 2, ln. 19).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to encode a marking as a hexadecimal number as taught by Wyatt with the device as disclosed by Trpkovski. The motivation for marking/utilizing a hexadecimal code as opposed to a standard decimal code would have been to reduce the number of digits required to convey the same amount of information and to provide

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users with a way of reading information stored within a computer index (col. 1, ln. 5-col. 2, ln. 19).

Trpkovski in view of Wyatt discloses the claimed invention as cited above though does not explicitly disclose transmitting **the** at least one marking element of a string of characters to an identification device by a technical communication.

Urbish discloses the at least one marking element including a string of characters which contains one or more substrings of successive characters where at least one of the one or more substrings is encoded as a number is communicated to the identification device by a technical communication (binary coded numbers and alphanumeric symbols; col. 3, ln. 24-col. 4, ln. 28).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to communicate characters to the identification device as taught by Urbish with the device as disclosed by Trpkovski in view of Wyatt. The motivation would have been to communicate a unique identification number for transaction purposes (col. 3, ln. 24-col. 4, ln. 28).

**Regarding claim 48**, Trpkovski teaches with the marking element visible from outside the glazing unit, the system further comprises an electronic reader that recognizes the marking element and that reads the marking element.

Trpkovski in view of Wyatt discloses the claimed invention as cited above though does not explicitly disclose recognizing/reading **the** at least one marking element of a string of characters to an identification device by an electronic reader.



Urbish discloses recognizing and reading the at least one marking element including a string of characters which contains one or more substrings of successive characters where at least one of the one or more substrings is encoded as a number is communicated by an electronic reader (binary coded numbers and alphanumeric symbols detected and analyzed; col. 3, ln. 24-col. 4, ln. 28).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to read and recognize characters with an electronic reader as taught by Urbish with the device as disclosed by Trpkovski in view of Wyatt. The motivation would have been to communicate a unique identification number for transaction purposes (col. 3, ln. 24-col. 4, ln. 28).

**Regarding claim 49**, Trpkovski teaches at least one database filter associated with the identification device so as to pass on only some of the information corresponding to the marking element (automatically selects properties and information; para [0010-0011,0019]).

**Regarding claim 50**, Trpkovski teaches the first technical communication device and the second technical communication device include utilizing mail, telephone, telefax, electronic communications, or Internet type (remote computer network, Fig. 2; para [0019,0058]).

**Regarding claim 51**, Trpkovski teaches the reception device includes a recording or viewing device (user/operator display; para [0028-0032]).

**Regarding claim 52**, Trpkovski teaches the information corresponding to the at least one marking element and contained in the computer database of the identification

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device includes technical characteristics that make up the glazing unit, characteristics relating to manufacture of the glazing unit, commercial characteristics of the glazing unit, and characteristics associated with a destination of the glazing unit (para [0003-0004,0028,0032-0035]).

**Regarding claim 53**, Trpkovski teaches the correlating the one or more numbers with the item of information further comprises relating the one or more hexadecimal numbers to a string of numbers of an identifier (model/serial number), the identifier representing the item of information and the item of information containing all characteristics relating to the glazing unit, wherein the information is recorded in the computer database of the identification device in a computer-oriented manner in a form of the string of numbers of the identifier (database/lookup table includes model number and other characteristics; para [0003-0004,0028,0032-0035]).

**Regarding claim 55**, Trpkovski teaches the at least one marking element is arranged on a face of the at least one interlayer facing the gas-filled cavity (logos on glass of “insulated glass units” with air leakage ratings, Figs. 4-6,11; para [0004,0010-0012]).

### ***Response to Arguments***

8. Applicant's arguments with respect to claims 28, 43, and 48 have been considered but are moot in view of the new ground(s) of rejection.

***Remarks***

Examiner notes that the language “whomsoever” neither explicitly nor definitely excludes or includes manufacturers and/or end-users. The following definitions are taken from Oxford English Dictionary:

- whomsoever: WHOMEVER a (with or without correlative): cf. WHOSOEVER 1.
- whomever: The objective case of WHOEVER; as direct obj., or obj. of prep. (Less frequent than WHOMSOEVER.) **a.** As compound relative, or with correlative in principal clause (with constructions as in WHOEVER 1): Any (one) whom.

Thus “whomsoever” is understood to mean anyone whom as opposed to everyone whom. Thus the limitation is that the marking element is visually identifiable by anyone (including manufacturers and end-users).

Examiner cannot make recommendations for amendments to claim 28 which make the structure of the glazing unit distinguishable and non-obvious over applied prior art and prior art found within previous searches. The recommendations to claims 43 and 47 below are aspects of the entire system and method of using the entire system, as opposed to aspects of the glazing unit apparatus.

Examiner recommends amending claims 43 and 47 to incorporate limitations from **both** claims 32 and 53. Claim 32 is not considered allowable or to contain allowable subject matter since the limitations do not structurally limit the apparatus (i.e. the glazing unit) of the base claim 28 and due to the particular language found within the claim. Claim 53 is not considered allowable or to contain allowable subject matter

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due to the particular language found within the claim. However, Examiner believes that a claim containing limitations from claims 32 **and** 53 **could** be considered allowable if introduced within either the “method for identifying a glazing unit” of claim 43 and/or the “system for identifying a glazing unit” of claim 47. Claim 53 recites “relating” the hexadecimal number(s) to a string of numbers of an identifier, which is taught by the applied prior art. However, claim 32 recites that “each number of the string of numbers [of the identifier in the database] is coded as a hexadecimal number to comprise one of the one or more substrings of the at least one marking element”.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHRISTOPHER STANFORD whose telephone number is (571)270-3337. The examiner can normally be reached on Monday through Fridays , 7:30am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner’s supervisor, Steve Paik can be reached on (571)272-2404. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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